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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

ISRAEL GUILLEN,

Defendant and Appellant.

D039083

(Super. Ct. No. SCD159656)

APPEAL from a judgment of the Superior Court of San Diego County, Bernard E. Revak, Judge. Affirmed.

A jury convicted 24-year-old Israel Guillen of elder abuse likely to cause great bodily harm. (Pen. Code, § 368, subd. (b)(1).) In a bifurcated hearing the court found he had served a prior prison term. (Pen. Code, §§ 667.5, subd. (b), 558.) The court sentenced him to four years in prison: the three-year middle term for elder abuse likely to produce great bodily harm enhanced one year for the prior prison term. Guillen contends

the evidence does not support the conviction of elder abuse likely to cause great bodily harm. We affirm the judgment.

FACTS

Around 10:00 p.m. on April 20, 2001, Guillen was playing music in his room when his mother asked him to turn down the volume. He refused and hit her in the face with a heavy Mexican blanket. She called to her other son for help. Guillen's 71-year-old father, Miguel, heard the noise and went to Guillen's room. When Miguel approached Guillen with a raised broom, Guillen grabbed the broom from him, threw it aside and hit Miguel with his fist three times in the face. Miguel described the blows as "hard," and said at least one of the blows was to his left eye, staggering him, causing him to "see stars" and making his eye bleed. Miguel sustained a small cut between his eye and the bridge of his nose.

DISCUSSION

A conviction of elder abuse likely to produce great bodily injury requires evidence that the defendant inflicted unjustified pain or suffering on a person 65 years of age or older, under circumstances likely to cause great bodily injury, with knowledge the person is an elder. (*People v. Heitzman* (1994) 9 Cal.4th 189, 193, fn. 2, 197.) Guillen argues the People did not present sufficient evidence that his conduct was likely to cause his father to suffer great bodily injury.

We will affirm a judgment supported by substantial evidence. (*People v. Johnson* (1980) 26 Cal.3d 557, 576.) Substantial evidence is evidence of legal significance, reasonable in nature, credible and of solid value. (*People v. Samuel* (1981) 29 Cal.3d

489, 505.) The court must review the entire record in the light most favorable to the judgment below and presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence. If the evidence permits a reasonable trier of fact to conclude the charged crime was committed, the opinion of a reviewing court that the circumstances may also be reconciled with a contrary finding will not warrant reversal. (See *Jackson v. Virginia* (1979) 443 U.S. 307, 318-319.)

Whether a defendant inflicts pain or suffering likely to produce great bodily injury depends on the force the defendant used not the actual infliction of great bodily injury. (See *People v. Aguilar* (1997) 16 Cal.4th 1023, 1028.) A single blow with a fist may be likely to inflict great bodily injury. (*In re Nirran W.* (1989) 207 Cal.App.3d 1157, 1161-1162.) Where, as here, a man nearly half a century younger strikes another three times in the face with force sufficient to stagger the victim, cause him to "see stars" and inflict a cut, we believe substantial evidence supports the conviction of elder abuse likely to produce great bodily injury.

DISPOSITION

The judgment is affirmed.

KREMER, P. J.

WE CONCUR:

BENKE, J.

McDONALD, J.